IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.353 OF 2006
WITH
CIVIL APPLICATION NO.436 OF 2006

Kavita Nandkishore Rupani. ..Appellant.

V/s.

The Bombay Presidency Radio Club Ltd. & Ors. ..Respondents.

Mr.Subhash Jha i/b. M/s.Law Global for appellant.

Mr.A.M.Sarogi for S.K.Chaurasia for respondent Nos. 1 to 6 & 9 to 15.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 20, 2006.

P.C. :

1. Heard.

2. Counsel for the respondent Club has placed on record the decision of the Managing Committee dated July 19, 2006. As per this decision although the Managing committee has found the appellant being negligent and committed misconduct, misuse of her post, but in larger interest has taken lenient view of the matter and decided not to take any further action against appellant. In terms of this decision, contends the counsel for the respondent, the appellant will be entitled to enjoy the facilities of

the Club like any other member. The main grievance in the Interim Application filed before the Trial Court being Notice of Motion No.1219 of 2006 was to restrain the respondent Club from not allowing the appellant to utilise the facilities of the Club as any other member. As that relief claimed in the Notice of Motion has become academic in view of the subsequent development, I find substance in the stand taken on behalf of the respondent Club that the present proceeding pending before this court can be disposed of, leaving all questions open, to be decided in the pending suit before the trial Court.

3. Counsel for the appellant fairly accepts that although several reliefs were claimed in Notice of Motion, main concern of the appellant was to allow her to enjoy the facilities of the respondent Club as any other member. Thus understood, the present proceeding can be conveniently disposed of, as having become infructuous in view of the subsequent development.

4. It is however, made clear that all questions in the pending suit will be decided on its own merits in accordance with the law, uninfluenced by observations made in the impugned Judgment or for

that matter disposal of the present proceedings by this Court under this order.

5. Having regard to the nature of controversy involved it will be desirable that the suit pending before the trial court is disposed of expeditiously. The trial Court shall take necessary steps for early disposal of the suit, preferably to be disposed of by end of December, 2007. This observation is made on the basis of assurance given by the parties through their counsel that they shall extend full cooperation to the Trial court for early disposal of the suit.

6. At this stage, Mr. Jha for the appellant points out that as there may be issues, which would arise out of the findings recorded by the Managing Committee to reach at the decision as taken on 19th July, 2006, the appellant may be granted liberty to amend the pleadings in that context and ask for further relief, as may be advised.

7. Needless to observe that as the event of taking decision by the Managing Committee is a subsequent development, it will be open to the appellant to carry out appropriate amendment to the pleadings and ask for further relief as may be

advised. This aspect will be considered by the trial court on its own merits in accordance with the law.

8. Accordingly, this appeal as well as civil applications are disposed of on the above terms.

9. The parties shall appear before the Trial court on 1st August, 2006 at 11 a.m., on which date court may provide schedule of hearing of the suit, so that the parties can abide by the said schedule.